

# SIKKIM



**GOVERNMENT**

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**Tuesday 19<sup>th</sup> September, 2017**

**No. 453**

**GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK**

**No. 21/LD/17**

**Dated: 19.09.2017**

## **NOTIFICATION**

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 8<sup>th</sup> Day of September, 2017 is hereby published for general information:-

### **THE SIKKIM ANTI DRUGS (AMENDMENT) ACT, 2017**

#### **ACT NO. 21 OF 2017**

**AN**

**ACT**

further to amend the Sikkim Anti Drugs Act, 2006.

**BE** it enacted by the Legislature of Sikkim in the Sixty-eighth Year of the Republic of India as follows: -

- |   |           |   |
|---|-----------|---|
| <b>Short title,<br/>extent and<br/>commencement</b> | <b>1.</b> | <p>(1) This Act may be called the Sikkim Anti-Drugs (Amendment) Act, 2017.</p> <p>(2) It extends to the whole of Sikkim.</p> <p>(3) It shall come into force on the date of its publication in the Official Gazette.</p>  |
| <b>Amendment<br/>of Section 2</b>                   | <b>2.</b> | <p>In the Sikkim Anti Drugs Act, 2006 (hereinafter referred to as the Principal Act), for Section 2 and the entries relating thereto, the following shall be substituted, namely:-</p> <p>"2. In this Act, unless the context otherwise requires, -</p> <p>(a) "Act" means the Sikkim Anti Drugs Act, 2006;</p> <p>(b) "addict" means a person who has dependence in any drug having the abuse potential and consumes such drug but</p> |

shall not include a person who has dependence in any drug having abuse potential and consumes such drug on the valid prescription of a registered medical practitioner for treatment of his disease;

- (c) "commercial quantity" in relation to controlled substance, means any quantity as specified in the Schedule to the Act;
- (d) "consumer" means in relation to any person who manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses controlled substances in "small quantity" without valid prescription or license;
- (e) "controlled substances" means any substance declared by the Government by notification, published in the Official Gazette;
- (f) "conveyance" means a conveyance of any description whatsoever and includes any animal, aircraft, vehicle (including two-or-three wheeled), or vessel;
- (g) "Government" means the State Government of Sikkim;
- (h) "illicit traffic" in relation to controlled substances means production, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import or export inter-State of controlled substances and in dealing with any other activities of controlled substances;
- (i) "large quantity" in relation to controlled substances means any quantity as specified in the Schedule to the Act;
- (j) "licensed dealers" means the traders who have the drug license or the trade license to stock and sell the controlled substances or the holders of trade license to sell the substances mentioned;
- (k) "peddler" in relation to any person means who manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses controlled substance of quantity more than "small quantity" without valid prescription or license;
- (l) "prescribed" means prescribed by rules under this Act;
- (m) "rule" means the rules framed under the Act;
- (n) "Schedule" means the Schedule appended to this Act;
- (o) "small quantity" in relation to controlled substance, means any quantity as specified in the Schedule to the Act."

**Amendment of  
Section 4**

**3.**

In the Principal Act, in Section 4, -

- (i) In sub-section (1) for the words and figure "Section 4", the word and figure "Section 3" shall be substituted;

- (ii) In sub-sections (1) and (2), for the words "Programme Officer", wherever they occur, the words "Programme Director" shall be substituted.

**Amendment of  
Section 5**

4. In the Principal Act, in Section 5, after sub-section (2), the following sub-section shall be inserted, namely: -

"(3). The fund shall be maintained in an account in a Nationalized Bank in the name of "State Fund for Control of Drug Abuse" and the account shall be operated jointly by the Programme Director and the Director / Additional Director, Department of Health Care, Human Services and Family Welfare, Government of Sikkim, under sanction of the Sikkim Anti Drugs Authority notified under the Act or a representative authorized by the Authority".

**Amendment of  
Section 6**

5. In the Principal Act, in Section 6, for the words and figures "Section 4A", the words and figures "Section 5" shall be substituted.

**Amendment of  
Section 7**

6. In the Principal Act, in the first proviso of Section 7 of for the words "small quantities", the words "verifiable quantities, as prescribed in the rules", shall be substituted.

**Substitution of  
Section 9**

7. In the Principal Act, for Section 9, the following Section shall be substituted, namely: -

"9. (1) Whoever, in contravention of any provision of this Act or any rule or order made thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses, -

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which shall not be less than two years but may extend to five years and shall also be liable to pay fine which shall not be less than twenty thousand rupees but may extend to fifty thousand rupees;

(b) where the contravention involves large quantity, with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to pay fine which shall not be less than fifty thousand rupees but may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment which shall not be less than ten years but may extend to fourteen years and shall also be liable to pay fine which shall not be less than one lakh rupees but may extend to two lakh rupees.

(2) Where the contravention is by licensed dealers, upon conviction the license shall be cancelled.

(3) (i) Where the offender is a student of a school, college, university, or any educational institution, shall be punishable in the following manner, namely :-

- (a) Upon first consumption such person shall undergo compulsory psychiatric evaluation and/or psychological assessment followed, if necessary, by detoxification and rehabilitation for a minimum period of one month which may extend to six months, as the case may be;
- (b) If such person consumes the controlled substance for the second time, upon conviction, shall undergo compulsory psychiatric evaluation and / or psychological assessment followed by compulsory detoxification and rehabilitation for a period of not less than six months:

Provided that, if, such person, fails to undergo such detoxification and rehabilitation for a period of six months, he shall undergo two years imprisonment and shall also be liable to pay fine which shall not be less than twenty thousand rupees.

- (c) If such person consumes the controlled substance for more than twice, shall undergo imprisonment for a period not less than two years but may extend to five years and shall also be liable to pay fine which shall not be less than fifty thousand but may extend to one lakh rupees;
- (d) whoever, being in-charge or being a member of staff of an educational institution, fails to inform wilfully or to initiate appropriate action, on the commission of offence within the vicinity or premises of the institution during the official working hours of the institution, under clause (i) of sub-section (3) of Section 9, shall be punished with imprisonment of either description which may extend to two years or with fine or with both.
- (e) The provisions of sub-clauses (a), (b) and (c) of clause (i) shall not apply to a minor under this Act.
- (f) A committee shall be formed under the chairmanship of the Principal/Headmaster of the School consisting of the Class Teacher of the class where the student is studying as the Secretary, and five prominent parents/ guardians whose children are studying in the School. The committee will act as a counselling body to aid and advise the afflicted student. The committee shall also collect funds for securing rehabilitation of the student in rehabilitation centres.

- (ii) Where the offender is a State Government employee, or an employee of the State Government Undertaking or an Organization, shall be punishable in the following manner, namely: -
  - (a) On first consumption, shall undergo compulsory psychiatric evaluation and / or psychological assessment, and if necessary, followed by detoxification and rehabilitation for a minimum period of one month which may extend to six months, as the case may be. On completion of the above period such person shall also be liable to imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees or both.
  - (b) On subsequent consumption, shall undergo compulsory psychiatric evaluation and / or psychological assessment followed by compulsory detoxification and rehabilitation for a minimum period of six months. On completion of above period such person shall also be liable to imprisonment which shall not be less than two years but may extend to five years and also with fine which may extend to one lakh rupees.
  - (c) Such person shall also be liable for departmental proceedings as per the Sikkim Government Servants' Conduct Rules, 1981, and Sikkim Government Servants' (Discipline and Appeal Rules), 1985.
- (iii) Where the offender is a member of the general public, shall be punishable in the following manner, namely: -
  - (a) On first consumption, shall undergo compulsory psychiatric evaluation and / or psychological assessment, and if necessary, followed by detoxification and rehabilitation for a minimum period of one month which may extend to six months, as the case may be. On completion of such period shall also be liable to imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees or both.
  - (b) On second consumption, shall undergo compulsory psychiatric evaluation and / or psychological assessment followed by compulsory detoxification and rehabilitation for a minimum period of six months. On completion of such period shall also be liable to imprisonment which may extend to three years, or with fine which may extend to one lakh rupees, or both.

(c) If such person consumes the controlled substance for more than twice, shall undergo imprisonment for a period not less than three years but may extend to seven years and shall also be liable to pay fine which shall not be less than one lakh rupees but which may extend to two lakh rupees. Further, such person shall not be eligible for-

(i) any kind of employment under the State Government or any State Government Undertakings and Organizations.

(ii) any welfare benefits provided/granted by the State Government from time to time, except in cases of natural calamities:

Provided the Government may, after a period of ten years from the date of commission of last offence, and on evaluation and assessment of such person, if found to be eligible for any employment or benefit, consider the grant of such employment or benefit.

(4) Where the contravention involves a person using a mode of transport or any other form of conveyance, either inter-State or intra-State, such person shall be liable to imprisonment for a term which shall not be less than ten years but which may extend to fourteen years and shall also be liable to fine which shall not be less than one lakh but may extend to ten lakhs rupees and the conveyance as used, shall be liable to be seized and confiscated, which may be released on payment in the following manner:-

(a) Heavy motor vehicle – Rupees two lakhs

(b) Light motor vehicle – Rupees one lakh

(c) Two-or-three wheeled – Rupees fifty thousand

(d) Any other form of conveyance – Rupees twenty-five thousand

(5) Where the contravention involves the manufacture of controlled substances without a valid manufacturing licence, such person shall be liable to imprisonment for a term which shall not be less than ten years but which may extend to fourteen years and shall also be liable to fine which shall not be less than five lakhs but may extend to ten lakh rupees.”

**Substitution of  
Section 10**

8. In the Principal Act, for section 10, the following Section shall be substituted, namely:-

“10. Whoever, being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or

conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of the Act, shall be punishable with imprisonment for a term not less than five years but may extend to ten years and fine which shall not be less than fifty thousand but may extend to one lakh rupees."

**Substitution of  
Section 11**

9. In the Principal Act, for Section 11, the following Section shall be substituted, namely:-

"11. Whoever indulges in financing, directly or indirectly, any of the activities specified in clause (h) of Section 2 or harbors any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to fourteen years and shall also be liable to fine which shall not be less than two lakh rupees but which may extend to five lakh rupees:

Provided that the Court may, for reasons to be recorded in the judgment, impose a fine exceeding five lakh rupees."

**Substitution of  
Section 19**

10. In the Principal Act, for Section 19, the following Section shall be substituted, namely :-

"19. (1) When an addict as defined under clause (b) of Section 2, or a consumer as defined under clause (d) of Section 2, is found guilty of an offence punishable under sub-sections (3) of Section 9, and if the Court by which such person is found guilty is of the opinion, regard being had to the age, character, antecedents, or physical or mental condition of the offender, that it is expedient so to do, notwithstanding anything contained in this Act or any other law for the time being in force, the Court may, instead of sentencing such person at once to any imprisonment, with the person's consent, direct that such person be released for undergoing medical treatment for detoxification or de-addiction from a hospital or an institution maintained or recognized by the Government, and to appear and furnish before the Court within a period not exceeding six months, a report regarding the result of his treatment and, in the meantime, to abstain from the commission of any offence under Chapter IV.

(2) If it appears to the Court, having regard to the report regarding the result of the treatment furnished under sub-section (1) of Section 19, that it is expedient to do so, the Court may direct the release of the offender after due admonition, and for abstaining from the commission of any offence under Chapter IV during such period as the Court may deem fit to specify or on such person's failure so to abstain, to appear before the Court and receive sentence when called upon during such period."

- Amendment of Section 20**      11. In the Principal Act, in sub-section (2) of Section 20, after the words "special order of the Government" and before the words "if he has reason to believe", the words "and any local authority of the Panchayat or the Municipality" shall be inserted.
- Amendment of Section 26**      12. In the Principal Act, in Section 26, for the words "photographs" wherever it occur, the words "photographs and videography" shall be substituted.
- Amendment of Section 37**      13. In the Principal Act, in Section 37, for the words and figures, "Section 9 (b)", wherever it occur the words and figures "sub-section (3) of Section 9" shall be substituted.
- Insertion of Schedule**      14. In the Principal Act, after Section 44, the following Schedule shall be inserted, namely: -

**"Schedule**

*(see clause (c), (i) and (o) of Section 2)*

Sl. No.	Controlled Substance Delivery Format	Small Quantity	Large Quantity	Commercial Quantity
1	2	3	4	5
1	Pill, Capsule, Tablet	100 pieces or less	101 to 1500 pieces	more than 1500 pieces
2	Liquid or Syrup	1000 ml or less	1001 ml to 5 litres	more than 5 litres
3	Injection vials or ampoules (in units)	10 units or less	11 to 50 units	more than 50 units"

**Jagat B. Rai (SSJS)**  
**LR-cum-Secretary,**  
**Law Department.**